

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: DEREGULATION OF LOCAL EXCHANGE SERVICES IN COMPETITIVE MARKETS	DOCKET NO. INU-04-1
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NOTICE OF VIOLATIONS OF BOARD ORDER

(Issued July 12, 2004)

On May 7, 2004, the Utilities Board (Board) initiated this notice and comment proceeding to consider whether local exchange service to business and residential customers in certain Iowa communities is subject to effective competition and should be deregulated pursuant to Iowa Code § 476.1D (2003) and 199 IAC 5.3(1) (2003).

As a part of that order, the Board directed certain local exchange service providers to file updated responses to its 2003 survey of local exchange service providers in Iowa.

The Board's order stated in Ordering Clause No. 4 as follows:

4. All ILECs and CLECs providing service in the Council Bluffs and Sioux City markets, as defined in this order, as well as the ILECs and CLECs providing service in the following overbuilt exchanges: Laurens, Mapleton, Spencer, Storm Lake, Whiting, Armstrong, Belle Plaine, Conrad, Coon Rapids, Delmar, Forest City, Harlan, Lowden, Oxford, Oxford Junction, Primghar, Saint Ansgar, Solon, Stacyville, Stanwood, Steamboat Rock, and Tiffin, shall file updated survey responses for those exchanges. The updated responses shall be filed on or before June 14, 2004, and shall include data as of May 1, 2004. A copy of the survey form is attached to this order as Attachment A. If assembling data as of May 1, 2004, is likely to present an undue burden for an ILEC or CLEC, the company may file a request for authorization to use other data. The request,

which must be filed on or before May 21, 2004, shall specify the reason that May 1, 2004, data would be unduly burdensome and shall identify the data that is available and proposed for use.

As of the date of this order, 27 of the ILECs and CLECs affected by this order have filed updated survey responses, and another carrier's response is being processed. However, the following carriers have not filed updated survey responses for some or all of the affected exchanges:

1. BG Enterprises, Inc., d/b/a Grizzly Telephone
2. Cedar Communications, LLC
3. Choicetel, LLC
4. Comm South Companies, Inc.
5. Coon Rapids Municipal Utilities¹
6. Digital Telecommunications, Inc.
7. Farmers Mutual Cooperative Telephone Company (Harlan)
8. Farmers Mutual Telephone Company d/b/a OmniTel Communications
9. Ionex Communications North, Inc.
10. McLeodUSA Telecommunications Services, Inc.²
11. New Access Communications LLC
12. Quantumshift Communications, Inc.
13. Spencer Municipal Communications Utility
14. Vartec Telecom, Inc.
15. Z-Tel Communications, Inc.

Each of these carriers is hereby notified, pursuant to Iowa Code § 476.51 (2003), that it has violated an order lawfully issued by the Board. Each carrier has two weeks from the date of this order to cure its violation by submitting updated survey

¹ Responded with a letter on June 14, 2004, but did not provide updated survey responses.

² Responded on June 30, 2004, with updated survey responses for the Sioux City and Council Bluffs exchanges only. Updated information for the surrounding exchanges has not been provided.

responses in compliance with the requirements of the Board's May 7, 2004, order. Failure to comply by any carrier will subject that carrier to civil penalties pursuant to § 476.51.

The Board also notifies these carriers that a failure to comply may be considered evidence that the carrier is no longer furnishing land-line local telephone service in Iowa and, therefore, is no longer entitled to hold a certificate of public convenience and necessity for that purpose pursuant to Iowa Code § 476.29.

Finally, the Board notes that Winnebago Cooperative Telephone Association (Winnebago) should have been included in the list of carriers required to respond to the May 7, 2004, order (and therefore served with a copy of the order), but was omitted. Winnebago will also be given 14 days from the date of this order to file an updated survey response, but Winnebago is not in violation of the May 7, 2004, order and is not, by this order, being notified of any such violation.

IT IS THEREFORE ORDERED:

1. The local exchange carriers identified in the body of this order are hereby notified, pursuant to Iowa Code § 476.51 (2003), that they are in violation of the Board's order of May 7, 2004, as described above. Each carrier has 14 days from the date of this order to comply with the requirements of the May 7, 2004, order. Failure to comply will result in an order requiring the carrier to show cause why civil penalties should not be assessed against it for its failure to comply.

2. Within 14 days of the date of this order, Winnebago Cooperative Telephone Association shall provide an updated survey response as described in the

Board's May 7, 2004, order in this docket. If the company requires additional time to prepare its response, it may file a motion requesting a reasonable extension of this deadline.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 12th day of July, 2004.